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DEPARTMENT OF COMMERCE

International Trade Administration

[A-489-835]

Dried Tart Cherries from the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable May 13, 2019.

FOR FURTHER INFORMATION CONTACT: Alex Wood at (202) 482-1959 or Alice Maldonado at (202) 482-4682; AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On April 23, 2019, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) Petition concerning imports of dried tart cherries (cherries) from the Republic of Turkey (Turkey).¹ The AD Petition was filed in proper form by the Dried Tart Cherry Trade Committee (the petitioner).² The AD Petition was accompanied by a countervailing duty (CVD) Petition concerning imports of cherries from Turkey.

¹ See the Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties: Dried Tart Cherries from the Republic of Turkey," dated April 23, 2019 (the AD Petition).

² *Id.* at 1-3.

On April 25, and May 1, 2019, Commerce requested supplemental information pertaining to certain aspects of the AD Petition in separate supplemental questionnaires.³ Responses to the supplemental questionnaires were filed on April 29 and May 2, 2019.⁴

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of cherries from Turkey are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing cherries in the United States. Consistent with section 732(b)(1) of the Act, the AD Petition was accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the AD Petition on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(E) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested AD investigation.⁵

Period of Investigation

Because the AD Petition was filed on April 23, 2019, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) is April 1, 2018, through March 31, 2019.

³ See Commerce Letter re: Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Dried Tart Cherries from the Republic of Turkey: Supplemental Questions, dated April 25, 2019; Commerce Letter re: Petition for the Imposition of Antidumping Duties on Imports of Dried Tart Cherries from the Republic of Turkey: Supplemental Questions, dated April 25, 2019; and Memorandum, “Phone Call with Counsel to the Petitioner,” dated May 1, 2019.

⁴ See the Petitioner’s Letters, “Dried Tart Cherries from Turkey: Response to General Issues Questionnaire,” dated April 29, 2019 (General Issues Supplement); “Dried Tart Cherries from Turkey: Response to Antidumping Questionnaire,” (AD Supplement) dated April 29, 2019; and “Dried Tart Cherries from Turkey: Supplemental Response to Antidumping Questionnaire,” (Second AD Supplement) dated May 2, 2019.

⁵ See “Determination of Industry Support for the Petition” section, *infra*.

Scope of the Investigation

The product covered by this investigation is cherries from Turkey. For a full description of the scope of this investigation, *see* the Appendix to this notice.

Comments on Scope of the Investigation

During our review of the AD Petition, we contacted the petitioner regarding the proposed scope to ensure that the scope language in the AD Petition is an accurate reflection of the products for which the domestic industry is seeking relief.⁶ As a result, the scope of the AD Petition was modified to clarify the description of the merchandise covered by the AD Petition. The description of the merchandise covered by this investigation, as described in the Appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁷ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on June 3, 2019, which is 20 calendar days from the signature date of this notice.⁸ Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on June 13, 2019, which is 10 calendar days from the initial comment deadline.⁹ If

⁶ *See* General Issues Supplement, at 3-8 and Exhibit 7.

⁷ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁸ Because the deadline falls on a Sunday (*i.e.*, June 2, 2019), the deadline becomes the next business day (*i.e.*, June 3, 2019).

⁹ *See* 19 CFR 351.303(b).

scope comments include factual information,¹⁰ all such factual information should be limited to public information.

Commerce requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such comments must also be filed on the record of the concurrent CVD investigation.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).¹¹ An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of cherries to be reported in response to Commerce's AD questionnaire.

This information will be used to identify the key physical characteristics of the subject

¹⁰ See 19 CFR 351.102(b)(21) (defining "factual information").

¹¹ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

merchandise in order to report the relevant costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics, and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by producers to describe cherries, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all product characteristics comments must be filed by 5:00 p.m. ET on June 3, 2019, which is 20 calendar days from the signature date of this notice.¹² Any rebuttal comments must be filed by 5:00 p.m. ET on June 13, 2019. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the AD investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the

¹² See 19 CFR 351.303(b). Because the deadline falls on a Sunday (*i.e.*, June 2, 2019), the deadline becomes the next business day (*i.e.*, June 3, 2019).

domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹³ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁴

¹³ See section 771(10) of the Act.

¹⁴ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the Petition.¹⁵ Based on our analysis of the information submitted on the record, we have determined that cherries, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁶

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the Appendix to this notice. To establish industry support, the petitioner provided its own 2018 shipments of the domestic like product and compared this to the estimated total shipments of the domestic like product for the entire domestic industry, as reported by the Cherry Industry Administrative Board.¹⁷ The petitioner estimated the production of the domestic like product for the entire domestic industry based on shipment data. This is because production data for the entire domestic industry are not available for 2018, and the petitioner has established that shipments are a reasonable proxy for

¹⁵ See Volume I of the Petition, at 11-13 and Exhibit I-8.

¹⁶ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see Antidumping Duty Initiation Checklist: Dried Tart Cherries from the Republic of Turkey (AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Dried Tart Cherries from the Republic of Turkey (Attachment II). This checklist is dated concurrently with this notice and is on file electronically *via* ACCESS. Access to documents filed *via* ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

¹⁷ See Volume I of the Petition, at 6-7 and Exhibits I-2 and I-5; see also General Issues Supplement, at 8-10 and Exhibit 11.

data on production of cherries.¹⁸ We relied on data provided by the petitioner for purposes of measuring industry support.¹⁹

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.²⁰ First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²¹ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²² Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²³ Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject

¹⁸ See Volume I of the Petition, at 6-7 and Exhibits I-2 and I-5; *see also* General Issues Supplement, at Exhibit 11.

¹⁹ For further discussion, *see* AD Initiation Checklist, at Attachment II.

²⁰ *See* AD Initiation Checklist, at Attachment II.

²¹ *See* section 732(c)(4)(D) of the Act; *see also* AD Initiation Checklist, at Attachment II.

²² *See* AD Initiation Checklist, at Attachment II.

²³ *Id.*

merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁴

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression or suppression; adverse impact on the domestic industry's production, capacity utilization, U.S. shipments, employment, and financial and operating performance; and lost sales and revenues.²⁵ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁶

Allegations of Sales at LTFV

The following is a description of the allegation of sales at LTFV upon which Commerce based its decision to initiate this AD investigation of imports of cherries from Turkey.

Export Price

The petitioner based the U.S. price on average unit values (AUVs) of publicly available import data.²⁷ The petitioner did not make deductions from U.S. price for movement or other expenses.²⁸

²⁴ See Volume I of the Petition, at 18 and Exhibit I-10.

²⁵ *Id.* at 15-27 and Exhibits I-5, I-9, I-10, I-13, and I-14.

²⁶ See AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Dried Tart Cherries from the Republic of Turkey (Attachment III).

²⁷ See AD Initiation Checklist.

²⁸ *Id.*

Normal Value

The petitioner based normal value (NV) on home market prices obtained through market research for cherries offered for sale in Turkey within the proposed POI.²⁹ The petitioner calculated net home market prices, adjusted as appropriate.³⁰

Fair Value Comparisons

Based on the data provided by the AD Petition, there is reason to believe that imports of cherries from Turkey are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of U.S. price to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for cherries from Turkey covered by this initiation range from 347.24 to 648.35 percent.³¹

Initiation of LTFV Investigation

Based upon the examination of the AD Petition, and supplemental responses, we find that the AD Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of cherries from Turkey are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

²⁹ *Id.*

³⁰ *Id.* In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for this investigation, Commerce will request information necessary to calculate the constructed value and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. Commerce no longer requires a COP allegation to conduct this analysis.

³¹ *Id.*

Respondent Selection

The petitioner named 24 companies in Turkey as producers/exporters of cherries.³² Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select respondents in Turkey based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) numbers listed with the scope in the Appendix, below.³³

On May 10, 2019, Commerce released CBP data on imports of cherries from Turkey under APO to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of this investigation.³⁴ We further stated that we will not accept rebuttal comments.

Distribution of Copies of the AD Petition

³² See Volume I of the Petition, at Exhibit I-9.

³³ See, e.g., *Polyester Textured Yarn from India and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 58223, 58227 (November 19, 2018).

³⁴ See Memorandum, "Less-Than-Fair-Value Investigation of Dried Tart Cherries from the Republic of Turkey: Release of Customs Data from U.S. Customs and Border Protection," dated May 10, 2019.

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the AD Petition have been provided to the Government of Turkey via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petition to each exporter named in the AD Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the AD Petition was filed, whether there is a reasonable indication that imports of cherries from Turkey are materially injuring, or threatening material injury to, a U.S. industry.³⁵ A negative ITC determination will result in the investigation being terminated.³⁶ Otherwise, the investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce’s regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted³⁷ and, if

³⁵ See section 733(a) of the Act.

³⁶ *Id.*

³⁷ See 19 CFR 351.301(b).

the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.³⁸ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.³⁹ Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to

³⁸ See 19 CFR 351.301(b)(2).

³⁹ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁴⁰ Parties must use the certification formats

⁴⁰ See section 782(b) of the Act.

provided in 19 CFR 351.303(g).⁴¹ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: May 13, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

⁴¹ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*).

Appendix

Scope of the Investigation

The scope of this investigation covers dried tart cherries, which may also be referred to as, *e.g.*, dried sour cherries or dried red tart cherries. Dried tart cherries may be processed from any variety of tart cherries. Tart cherries are generally classified as *Prunus cerasus*. Types of tart cherries include, but are not limited to, Amarelle, Kutahya, Lutowka, Montmorency, Morello, and Oblacinska. Dried tart cherries are covered by the scope of this investigation regardless of the horticulture method through which the cherries were produced (*e.g.*, organic or not), whether or not they contain any added sugar or other sweetening matter, whether or not they are coated in oil or rice flour, whether infused or not infused, and regardless of the infusion ingredients, including sugar, sucrose, fruit juice, and any other infusion ingredients. The scope includes partially rehydrated dried tart cherries that retain the character of dried fruit. The subject merchandise covers all shapes, sizes, and colors of dried tart cherries, whether pitted or unpitted, and whether whole, chopped, minced, crumbled, broken, or otherwise reduced in size. The scope covers dried tart cherries in all types of packaging, regardless of the size or packaging material.

Included in the scope of this investigation are dried tart cherries that otherwise meet the definition above that are packaged with non-subject products, including, but not limited to, mixtures of dried fruits and mixtures of dried fruits and nuts, where the smallest individual packaging unit of any such product contains a majority (*i.e.*, 50 percent or more) of dried tart cherries by dry net weight. Only the dried tart cherry components of such products are covered by this investigation; the scope does not include the non-subject components of such products.

Included in the scope of this investigation are dried tart cherries that have been further processed in a third country, including but not limited to processing by stabilizing, preserving, sweetening, adding oil or syrup, coating, chopping, mincing, crumbling, packaging with non-subject products, or other packaging, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the dried tart cherries.

Excluded from the scope of this investigation are dried tart cherries that have been incorporated as an ingredient in finished bakery and confectionary items (cakes, cookies, candy, granola bars, etc.).

The subject merchandise is currently classifiable under 0813.40.3000 of the Harmonized Tariff Schedule of the United States (HTSUS). The subject merchandise may also enter under subheadings 0813.40.9000, 0813.50.0020, 0813.50.0060, 2006.00.2000, 2006.00.5000, and 2008.60.0060. The HTSUS subheadings set forth above are provided for convenience and U.S. customs purposes only. The written description of the scope is dispositive.

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